

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DASHONTA WARREN,

Plaintiff,

Case No. 17-cv-13406

v.

UNITED STATES DISTRICT COURT JUDGE
GERSHWIN A. DRAIN

INTERNAL REVENUE SERVICE, ET AL.,

Defendants.

**OPINION AND ORDER GRANTING DEFENDANTS' MOTION TO
DISMISS [#26]**

I. INTRODUCTION

Presently before the Court is Defendants' Motion to Dismiss. Dkt. No. 26. Defendants argue that Plaintiff's complaint fails to meet the minimum pleading requirements. *Id.* at pg. 1 (Pg. ID 371). For the reasons discussed below, this Court will grant Defendants' Motion to Dismiss.

II. FACTUAL BACKGROUND

Plaintiff initiated this action in state court. *See* Dkt. No. 1. On October 18, 2017, Defendants removed the action to federal court. Dkt. No. 1. Plaintiff then filed several motions for injunctive relief, declaratory judgment, default judgment,

and to compel. *See* Dkts. No. 11, 13, 15, 16, 24, 29. On December 18, 2017, Defendants filed their Motion to Dismiss. Dkt. No. 26. Plaintiff responded on December 26, 2017. Dkt. No. 28. Defendants filed a reply on January 9, 2018.

III. LEGAL STANDARD

Federal Rule of Civil Procedure 12(b)(6) governs motions to dismiss. The court must construe the complaint in favor of the plaintiff, accept the allegations of the complaint as true, and determine whether plaintiff's factual allegations present plausible claims. *See* Fed. R. Civ. P. 12(b)(6). To survive a motion to dismiss, a complaint must “allege enough facts to make it plausible that the defendant bears legal liability.” *Agema v. City of Allegan*, 826 F.3d 326, 331 (6th Cir. 2016). The facts need to make it more than “merely possible that the defendant is liable; they must make it plausible.” *Id.* “Bare assertions of legal liability absent some corresponding facts are insufficient to state a claim.” *Id.* A claim will be dismissed “if the facts as alleged are insufficient to make a valid claim or if the claim shows on its face that relief is barred by an affirmative defense.” *Riverview Health Inst., LLC v. Med. Mut. Of Ohio*, 601 F.3d 505, 512 (6th Cir. 2010).

IV. DISCUSSION

Defendants argue that Plaintiff has failed to set forth any cognizable legal claims that are grounded in fact. Dkt. No. 26, pg. 11–13 (Pg. ID 381–83). This Court agrees.

Plaintiff's complaint does not explicitly set forward the cause(s) of action that he is bringing against Defendants. Plaintiff's complaint is principally comprised of many documents which the Plaintiff failed to explain the significance of. Both this Court and Defendants are unclear about precisely what claims the Plaintiff is bringing. *See* Dkt. No. 26, pg. 7 (Pg. ID 377).

The Defendants' Motion to Dismiss attempts to identify Plaintiff's claims. Defendants identified claims of failing to release outstanding tax liens and levies and failure to process tax returns. *Id.* at pg. 8 (Pg. ID 378). Defendants also identified claims of breach of contract and breach of trust. *Id.* Plaintiff's complaint does not set forth facts sufficient to support any of these claims. Plaintiff's complaint does not state any facts to support the tax claims. His complaint does not demonstrate that he paid taxes for the years he is alleging a refund for, nor does it show why he is entitled to a refund. Plaintiff's complaint does not allege facts sufficient to support a finding that there was a contract or a trust agreement between the parties. The documents included in Plaintiff's complaint are not jointly signed, which would indicate a contract agreement. Plaintiff does not bring forth any other evidence, like correspondence with Defendants, that would indicate the parties entered into a mutual agreement. Further, Plaintiff's response does not attempt to clarify any of the deficiencies cited by Defendants. The Court concludes

that Plaintiff's complaint fails to set forth cognizable legal claims for which this Court may grant relief.

V. CONCLUSION

For the reasons discussed herein, the Court will grant Defendants' Motion to Dismiss. Accordingly, Plaintiff's Motions 11, 13, 15, 16, 24, 29 are dismissed as moot.

SO ORDERED.

Dated: January 19, 2018

s/Gershwin A. Drain
HON. GERSHWIN A. DRAIN
United States District Court Judge